

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

No. 5:08-CR-00302-F-1
No. 5:16-CV-00638-F

SAMUEL KEITH KERR, II ,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

ORDER

This matter is before the court on Samuel Keith Kerr, II's Motion to Vacate, Set Aside, or Correct Sentence pursuant to 28 U.S.C. § 2255 [DE-42]. Having examined Kerr's motion pursuant to Rule 4(b) of the Rules Governing Section 2255 Proceedings, the United States Attorney is DIRECTED to file an Answer pursuant to Rule 5, Rules Governing Section 2255 Proceedings, or to make such other response as appropriate to the above-captioned § 2255 motion within **forty (40)** days of the filing of this order.

Kerr asserts a challenge based on *Johnson v. United States*, 135 S. Ct. 2551 (2015), but when he was previously before this court he had retained counsel. Therefore, the Office of the Federal Public Defender will not be appointed pursuant to Standing Order No. 15-SO-2 (E.D.N.C. Oct. 16, 2015).¹

SO ORDERED.

This 1st day of July, 2016.



JAMES C. FOX
SENIOR UNITED STATES DISTRICT JUDGE

¹ Standing Order 15-SO-2 provides that the Federal Public Defender's Office is appointed to represent "any defendant serving a federal sentence, who was previously determined to be entitled to appointment of counsel or who was previously represented by the Federal Public Defender's Office."